

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Bowen Analyst: LuAnna Hass Bill Number: SB 25

Related Bills: See Prior Analysis Telephone: 845-7478 Amended Date: June 2, 2003

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Personal Information Confidentiality

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended March 6, 2003.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended March 6, 2003.
- ☒ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED March 6, 2003, STILL APPLIES.
- ☐ OTHER - See comments below.

SUMMARY

This bill would limit the use of social security numbers (SSNs) as personal identifying numbers.

This bill also would make changes to the Civil Code with regard to consumer credit reporting agencies, which do not affect the department.

SUMMARY OF AMENDMENTS

The June 2, 2003, amendments resolved the department's technical concerns by accepting the amendments suggested in the department's analysis of the bill as amended March 6, 2003. In addition, the amendments resolved several, but not all, of the implementation concerns as discussed in the department's analysis of the bill as amended March 6, 2003. Specifically, the amendments would:

- Remove the outdated reference to the 2002 start date for issuing the annual disclosure notice regarding the use of SSN's.
- Specify that the prohibitions in this bill would not apply to documents open to the public pursuant to the Bagley-Keene Open Meetings Act, which applies to state agencies.
- Make a technical change regarding the types of technology that would be restricted.
- Specify that the provision of the bill restricting the use of SSN's would be operative with respect to the Franchise Tax Board (FTB) beginning January 1, 2007.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Legislative Director
Brian Putler

Date
6/9/03

As a result of the June 2nd amendments, the department has updated the effective/operative date. For convenience, existing concerns are provided below. The remainder of the department's analysis of the bill as amended March 6, 2003, still applies.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2004, and operative for FTB January 1, 2007, and would apply to the department's use of SSNs on and after that date.

POSITION

Pending.

ANALYSIS

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

- The author's office has indicated that it is not its intent to require FTB to cease using SSNs as identifying numbers. Instead, the intent of the author is to restrict FTB's ability to print SSNs on mailings to taxpayers. The author may wish to provide an exemption for FTB or specify that this provision would not apply to FTB to the extent needed to fulfill its statutory obligations.
- A definition is needed for the term "administrative purposes." For example, in addition to documents mailed to taxpayers that contain their SSN, the department, like all state agencies, mails various personnel documents to employees that contain the employee's SSN. State agencies could be required to remove the SSN from these documents, unless the term administrative purposes was clearly defined to include employee-related matters.
- In addition to mailing documents containing SSNs to "individuals" such as taxpayers and employees, the department mails documents such as garnishments and levies to third parties such as a taxpayer's bank, employer, or landlord. Absent a clear definition of individual, the department would continue to send garnishments and levies containing the individual's SSN to these third parties.
- The department provides copies of tax returns and other printed documents filed by taxpayers to taxpayers upon request. Although the copy of the tax return contains the SSN as entered by the taxpayer, the tax return is considered a form. Under this bill, the SSN restriction does not extend to forms. Absent clarification, the department would continue to include the SSN on copies of returns and other documents mailed to the taxpayer.
- This bill would prohibit a person or entity from encoding or imbedding an SSN on a document using various technologies such as bar codes, chips, or magnetic strips. It is unclear if the terms "encode" or "imbed" would prohibit FTB from implementing any of its preliminary strategies to replace the SSN on documents with another identifier. These strategies include, but are not limited to, modification of the SSN, truncation or other derivative form of the SSN, encryption, or the creation of a unique identifier to replace the SSN. According to the author's staff, the intent of this bill is to prevent persons or entities from using encryption or certain types of modified SSNs in place of removing the SSN from documents. Department staff suggests amending the bill to specify the alternatives that would be prohibited.

FISCAL IMPACT

Under this bill, the department would be required to remove SSNs from notices mailed to the taxpayer. Cost estimates range from \$1.5 million to \$1.75 million. This cost includes costs resulting from increased customer service contact, processing hours, programming, testing, and maintaining departmental systems. This range reflects additional analysis of the strategies available for the department to implement this bill.

To ensure the department has the funding to implement this bill, the department would suggest the author add appropriation language to this bill that would cover the full costs of implementation. At a minimum, department staff suggests appropriation language that would provide FTB \$540,000 for the 2003/2004 fiscal year. This would allow the department to begin an implementation plan to remove SSNs from mailings in accordance with the bill. Absent an appropriation, the implementation date of January 1, 2007, would allow the department to go through the normal budgetary process for the funding. The department is currently working on Budget Change Proposals (BCP) for the 2004/2005 fiscal year. However, absent an appropriation or Department of Finance approval of a BCP for the 2004/2005 fiscal year or subsequent years, the department would be required to redirect staff from other revenue generating activities of the department, such as collections administration or audit, to administer this bill.

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